

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

September 29, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated August 30, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

On behalf of COMPANY, I ask that you review our request to one of our equipment vendors for exemption of sales tax on a recent equipment purchase.

The vendor currently requires collection of sales tax on the purchase of a piece of equipment which affixes date coded tape to cases of product we manufacture (see attached copy of invoices). Based upon our review of the Illinois Administrative Code, CH. I, Sec. 130.330, we find that the purchase should qualify as sales tax-exempt. We base such finding on the fact that the equipment is used primarily in the manufacturing or assembling of tangible personal property we sell. Our finding is further supported by the comparative illustrations of tax-exempt equipment listed in subsection (c)(3)A and (c)(3)(B. Furthermore, the illustrations of equipment not eligible for tax-exemption listed in subsection (c)(4) were not comparative to the equipment.

Please review this matter and forward your review to me. If you have any questions, do not hesitate to call me at ####.

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330, enclosed.

"Manufacturing" is defined as the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible

personal property, by procedures commonly regarded as manufacturing, which changes some existing material or materials into a material with a different use, form, or name. These changes must result from the process in question and be substantial and significant.

"Machinery" means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process. See Section 130.330(c)(2). "Equipment" includes any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembling process. See Section 130.330 (c)(3). The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation. Generally, the use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold will be considered to constitute an exempt use under the manufacturing machinery and equipment exemption.

Consumable materials, in general, do not qualify for the manufacturing machinery and equipment exemption. See Section 130.330(c)(3). These items, such as maintenance oils, grease, adhesives, cleaning solutions or compounds, and antifreeze, are considered consumable items and would be subject to Retailers' Occupation Tax and Use Tax. The rules specifically exclude items of personal apparel such as goggles, aprons, and masks from the exemption. Items used to protect employees, such as protective facemasks or helmets, gloves, coveralls, and protective goggles are excluded from the exemption even if law requires them. See Section 130.330(d)(4)(G). Please note that the rules also specifically exempt gases that are consumed in a manufacturing process. See Section 130.330(c)(3).

Packaging equipment may qualify for the manufacturing machinery and equipment exemption if it is used in an activity covered by 86 Ill. Adm. Code 130.330(d), enclosed. Please note that if packaging equipment is used as part of an integrated manufacturing process, it will qualify for the exemption.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel